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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,250	02/25/2004	Richard P. Schubert	A0312.70518US00	2714

7590 04/21/2008
Edmund J. Walsh
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EXAMINER

WALTER, CRAIG E

ART UNIT	PAPER NUMBER
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2188

MAIL DATE	DELIVERY MODE
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04/21/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 10/786,250	Applicant(s) SCHUBERT, RICHARD P.	
	Examiner CRAIG E. WALTER	Art Unit 2188	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 March 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-18 and 31-38.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

/Hyung S SOUGH/
 Supervisory Patent Examiner, Art Unit 2188
 04/16/08

/Craig E Walter/
 Patent Examiner, Art Unit 2188

Continuation of 11. does NOT place the application in condition for allowance because: In the response after final, Applicant sets forth four main arguments:

(1) p. 9, l. 6 through p.10, l. 2 of the remarks - Applicant contends that Applicant's characterization of Examiner's interpretation of the cited art causes steps c) and d) of instant claims 1 and 31 to be the same. Namely, "obtaining from the data table a priority..."(element c) would be the same as using "locations in the cache...having a priority associated therewith" (element d to obtain priority information)". This argument however is not persuasive. Examiner notes (referring again to col. 3, ll. 23-44) that Zangenehpour employs an LRU entry replacement strategy in order to replace the lowest priority "tagged" item stored with a new entry (highest priority item). Examiner maintains that elements c) through e) of the instant claim are met by Zangenehpour, since he explicitly teaches priority for each of the stored locations (via tags), and selectively stores the new item based on "relative priority" (the newest item always possesses the highest priority with respect to the other items). Examiner notes Applicant's recitation of "relative priority" in element e). Assume arguendo however that Zangenehpour assigns an actual priority to the newest claim AFTER it's stored as alleged by Applicant. Zangenehpour's newest entry will still invariably possess the highest "relative priority" prior to being stored by virtue of it being the "newest entry" in an LRU governed cache.

(2) p. 10, ll. 4-12 of the remarks - Applicant contends with respect to claims 33 and 38 that the "data table" is assumed to be in the cache itself of Zangenehpour, hence producing inconsistencies in the rejection of these dependant claims. This argument however is not persuasive as Examiner maintains that claims 33 and 38 are further rejected based on the combination of Zangenehpour and Abe's teachings (e.g. these two references demonstrate that it would have been obvious to store the data table in a location other than in the cache), and not on what is explicitly disclosed solely by Zangenehpour.

(3) p. 10, ll. 13-19 of the remarks - Applicant contends with respect to claims 14-16 that the references would fail to have priorities associated with locations used for non-cache locations. This argument however is not persuasive, as it fails to address the rejection set forth against the claims which establishes a prima facie case of obviousness by combining Zangenehpour and Agarwala (for claims 14 and 15) and Zangenehpour, Agarwala and Abe (claim 16).

(4) p. 10, ll. 20-27 of the remarks - Applicant alleges that there is no reason to combine Zangenehpour and Abe's disclosures (e.g. the combination of LRU and LFU replacement policies is incompatible). This argument however is not persuasive, as Examiner clearly established explicit motivation to combine in the Office action made FINAL on 28 November 2007 (p.7, l. 19 through p. 8, l. 2). Furthermore, Examiner notes that the USPTO classification schedule for class 711 currently has an entire subclass dedicated to combining more than one replacement mode in cache memories (e.g. 711/134 - "Combined Replacement Modes"). As such, one of ordinary skill in the computer and electrical arts would recognize the importance of establishing more than one replacement mode (e.g. LRU and LFU) for a particular cache memory hierarchy, Applicant's arguments notwithstanding.